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EDITORIAL

Another strike at 'three strikes' law

Monday, January 9, 2006

NO CIVILIZED SOCIETY should be imposing life sentences on offenders who have committed relatively minor crimes such as shoplifting or car theft.

Yet that is precisely what the voters of California have done through the state's "three strikes" law, which was advertised as a way to lock up irredeemable psychopaths such as Richard Allen Davis, the killer of 12-year-old Polly Klaas in 1993.

Unlike other states with three-strikes laws, however, in California only the first two strikes must be a serious or violent felony. As of last June, 7,716 inmates were serving 25-years-to-life three-strike sentences. Nearly 60 percent of them had committed nonviolent third-strike felonies.

Yet in November 2004, voters defeated Proposition 66, an initiative that would have reformed California's harsh three-strikes law by requiring the third strike to be a serious and violent felony.

Fortunately, there have since been numerous behind-the-scenes discussions to come up with "three strike" reforms more likely to get voter approval. San Francisco District Attorney Kamala Harris helped lead post-Prop. 66 discussions, which have included Alameda County District Attorney Tom Orloff and Los Angeles District Attorney Steve Cooley, a Republican. Assemblyman Mark Leno, D-San Francisco, convened a series of meetings to fashion a bill that the Legislature could approve and then put on the ballot for passage by voters. But a legislative consensus proved elusive.

Last week, in a potentially significant development, Cooley, together with Brian Dunn, an attorney with the late Johnnie Cochran's law firm, submitted a new three-strikes reform initiative to the California attorney general's office for a fiscal analysis and title and summary, as required by state law. Once it is cleared by the attorney general's office, the next step will be to collect signatures to qualify the initiative for the November's ballot.

The initiative, which is based on the language of the legislation Leno was fashioning in the Legislature, addresses the concerns that arose with Prop. 66. For example, the new plan only applies to inmates serving a three-strike sentence of 25 years to life, not to those serving enhanced "two strike" sentences. Unlike Prop. 66, it does not eliminate

some crimes such as burglary of an unoccupied residence from the list of serious and violent crimes.

Cooley and others from his office worked intensively with Dunn over the New Year's weekend to write the initiative. Because of time pressures, they say, they were unable to consult some of the key constituencies attempting to reform the law.

A key group for Cooley to persuade is the California District Attorneys Association, which led the opposition to Proposition 66. The association will meet on Jan. 23 in Palm Springs for its winter meeting, and we urge its members to take a more constructive approach to reforming the law than they did in 2004.

As Leno noted, California already incarcerates a higher percentage of its population than any other state. Yet in his State of the State speech last week, Schwarzenegger called for the construction of more jails and expanding California's prison population by another 83,000 inmates. We think the state should be reserving prison space for those who belong there.

This state cannot afford the burden of prolonged incarcerations of nonviolent inmates, especially when the governor is contemplating an ambitious \$200 billion public-works program to sustain our economy and improve our quality of life.

California's three-strikes law should be reformed to meet the needs of public safety and fiscal prudence. It's time to restore sanity to a system that now imposes punishments that are wildly out of proportion to certain crimes.

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